

FREEDOM COURT REPORTING

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1 IN THE UNITED STATES DISTRICT COURT
2 MIDDLE DISTRICT OF ALABAMA
3 NORTHERN DIVISION

4 MARY BLOODSWORTH and JERRY BLOODSWORTH,
5 Plaintiffs,

6 CIVIL ACTION NUMBER
7 VS.

8 2:05-CV-622-D
9 SMITH & NEPHEW, INC., et al.,
10 Defendants.

COPY

11 DEPOSITION OF DONALD F. HODURSKI, M.D.

12 S T I P U L A T I O N S

13 IT IS STIPULATED AND AGREED,
14 by and between the parties through their
15 respective counsel, that the deposition
16 of:

17 DONALD F. HODURSKI, M.D.,
18 may be taken before Carol J. Reyer,
19 Commissioner, at the Offices of Southern
20 Orthopedic Surgeons, 2000 Normandie Drive,
21 Montgomery, Alabama, on the 6th day of
22 February, 2006, commencing at
23 approximately 11:13 a.m.

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1 IT IS FURTHER STIPULATED AND
2 AGREED that the signature to and reading
3 of the deposition by the witness is
4 waived, the deposition to have the same
5 force and effect as if full compliance had
6 been had with all laws and rules of Court
7 relating to the taking of depositions.

8
9 IT IS FURTHER STIPULATED AND
10 AGREED that it shall not be necessary for
11 any objections to be made by counsel to
12 any questions, except as to form or
13 leading questions, and that counsel for
14 the parties may make objections and assign
15 grounds at the time of the trial, or at
16 the time said deposition is offered in
17 evidence, or prior thereto.

18
19 IT IS FURTHER STIPULATED AND
20 AGREED that notice of the filing of the
21 transcript by the Court Reporter is hereby
22 waived.

23

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1 A P P E A R A N C E S

2

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I N D E X

WITNESS:	PAGE
DONALD F. HODURSKI, M.D.	
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E X H I B I T S

Defendant's Exhibit No. 1 -	6
Curriculum Vitae	

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1 I, Carol J. Reyer, a Court
2 Reporter of Birmingham, Alabama, acting as
3 Commissioner, certify that on this date,
4 pursuant to the Federal Rules of Civil
5 Procedure, and the foregoing stipulation
6 of counsel, there came before me at the
7 Offices of Southern Orthopedic Surgeons,
8 2000 Normandie Drive, Montgomery, Alabama,
9 on the 6th day of February, 2006,
10 commencing at approximately 11:13 a.m.,
11 DONALD F. HODURSKI, M.D., witness in the
12 above cause, for oral examination,
13 whereupon the following proceedings were
14 had:

15 DONALD F. HODURSKI, M.D.,
16 being first duly sworn, was examined and
17 testified as follows:

18 THE COURT REPORTER: Usual
19 stipulations?

20 MR. POPE: That's fine with
21 me.

22 MR. BARTON: That's fine.

23 (Whereupon, an off-the-record

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1 discussion was held, at which time the
2 following proceedings were had and done:)

3 EXAMINATION BY MR. POPE:

4 Q. Would you please state your
5 name for the record, please, sir?

6 A. Donald F. Hodurski.
7 (Defendant's Exhibit No. 1
8 marked for identification.)

9 Q. (By Mr. Pope) Doctor
10 Hodurski, I'm going to show you what I've
11 marked as Defendant's No. 1 and ask you if
12 that's a current edition of your resume,
13 of your CV?

14 A. Yes.

15 Q. That will save us a little
16 time.

17 Doctor Hodurski, at some
18 point, was Mary Bloodsworth a patient of
19 yours?

20 A. Yes.

21 Q. And it's my understanding that
22 you performed a total left hip replacement
23 on Mrs. Bloodsworth; is that correct?

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1 A. Yes, yes.

2 Q. And would that have been June
3 the 2nd of 2003?

4 A. Yes.

5 Q. And if you could, just sort of
6 tell us in layman's terms when we talk
7 about a total hip replacement what that
8 is.

9 A. The joint has arthritis or
10 other problems, and you remove the ball or
11 the femoral head, and then you grind the
12 acetabulum with a reamer and put a socket
13 in the pelvis and put a prosthesis or a
14 stem with a ball on it in the femur and
15 articulate the two.

16 Q. And when you say articulate
17 the two, put them together?

18 A. Yes.

19 Q. And the acetabulum, is that
20 the portion that's in the pelvic area?

21 A. Yes, that's the socket in the
22 pelvis.

23 Q. And if you need to look at

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1 your records, be my guest.

2 And there's essentially, my
3 understanding, two components involved in
4 a hip replacement; is that correct?

5 A. Correct.

6 Q. And that would be the
7 acetabular cup and the femoral stem?

8 A. Correct.

9 Q. And that femoral stem is
10 usually, I understand, hammered down into
11 the femur?

12 A. Correct.

13 Q. After the ball portion of the
14 femur has been removed?

15 A. Correct.

16 Q. And when they're put together,
17 then that imitates the ball and socket
18 joint that we all have naturally; is that
19 correct?

20 A. That's correct.

21 Q. And for Mrs. Bloodsworth's
22 surgery -- and I'm going to refer to that
23 June 2nd, '03, surgery as the initial

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1 surgery if that's fine with everyone.

2 A. Yes.

3 Q. For that initial surgery, did
4 you use Smith & Nephew products to perform
5 that surgery?

6 A. Yes.

7 Q. And when I say the products,
8 the acetabular cup and the femoral stem?

9 A. Correct.

10 Q. And is it your recollection
11 that the femoral stem was part of the
12 Echelon series?

13 A. Yes.

14 Q. And the acetabular cup would
15 be part of the Reflection series?

16 A. Correct.

17 Q. Before performing a hip
18 replacement, do you know the exact size of
19 the acetabular cup that you're going to
20 end up implanting in the patient?

21 A. I know an approximate size,
22 but not the exact size. I know an
23 approximate size between four millimeters

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1 up or down.

2 Q. And is it true, though, that
3 you recognize or realize the exact size,
4 though, upon performing the surgery?

5 A. Yes, at surgery.

6 Q. And would that be true with
7 respect to Mrs. Bloodsworth's initial
8 surgery as well?

9 A. Correct.

10 Q. When you were -- before the
11 initial surgery and, well, I guess even
12 now, is Donnie Lanier what I would call
13 your sales representative for Smith &
14 Nephew products?

15 A. Yes.

16 Q. And did Donnie Lanier process,
17 for lack of a better word, the order for
18 the Smith & Nephew products that you
19 implanted in Mrs. Bloodsworth for the
20 initial surgery?

21 A. Yes.

22 Q. And if you could, kind of
23 explain generally how that works when you

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1 decide that you're going to perform a hip
2 replacement and you've decided that you're
3 going to use Smith & Nephew products.

4 Kind of walk us through, if you could, how
5 you get from that to those Smith & Nephew
6 products being available for you to
7 implant.

8 A. When I schedule someone for
9 surgery, our surgery ticket, so to speak,
10 says type of anesthesia, type of
11 prosthesis, and I will write down Smith &
12 Nephew. Then when the girls schedule the
13 surgery, they will contact Donnie and tell
14 him the date of that surgery so that he
15 has the various implants available at that
16 time and date.

17 Q. Does he actually bring the
18 products to the operating room?

19 A. Yes.

20 Q. And does he bring a range of
21 sizes of the different implants?

22 A. Yes.

23 Q. And what is the purpose of

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1 having a different range of sizes of
2 implants there available in the operating
3 room?

4 A. You try to what we call
5 template or get an idea of the size that
6 you're going to use. If, per chance, you
7 would fracture the bone with reaming or
8 you would encounter a cyst that you didn't
9 see which would require grafting and a
10 bigger component, there are a range of
11 problems you can encounter operatively
12 that you'll need smaller or larger
13 components for so that you really need
14 from A to Z those components that are
15 available.

16 Q. Got you.

17 And it's my understanding that
18 in February, actually February 2nd of '04,
19 you performed a revision of
20 Mrs. Bloodsworth's left hip; is that
21 correct?

22 A. Yes.

23 Q. And, generally speaking, when

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1 we talk about a revision, explain to us
2 what that term means in this context.

3 A. It's a -- you're prepared to
4 redo the operation once again to either
5 modify, remove or totally redo the
6 previous surgery for the problems the
7 patient has.

8 Q. And in Mrs. Bloodsworth's
9 case, that previous surgery would have
10 been the June 2nd, '03, surgery; is that
11 correct?

12 A. Yes.

13 Q. And either from your
14 recollection or looking at the chart for
15 Mrs. Bloodsworth, what is your
16 recollection of why you decided that
17 Mrs. Bloodsworth needed a revision?

18 A. She had recurrent
19 dislocations. Her hip was popping out of
20 the socket.

21 Q. And what -- how did you go
22 about attempting in this surgery to revise
23 the initial operation? What devices did

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1 you employ?

2 A. In Mrs. Bloodsworth we used
3 what we call a constrained prosthesis.
4 That is a prosthesis that locks the
5 acetabulum and the femur and makes it one
6 piece instead of two pieces.

7 Q. And is another name, just so
8 we're on the same page, if I say
9 constrained liner, is that what you just
10 described there, or am I not being precise
11 enough?

12 A. That's right. The liner is
13 constrained, but the whole, the whole
14 prosthesis is constrained, it's now one
15 unit, and it's done through a constrained
16 liner.

17 Q. And is the constrained liner
18 that you used for Mrs. Bloodsworth part of
19 the Reflection system?

20 A. Yes.

21 Q. A Smith & Nephew product?

22 A. Yes.

23 Q. And the constrained liner,

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1 where does it fit physically?

2 A. It fits into the existing
3 acetabulum which then is coupled around
4 the femoral head and a ring used to
5 tighten those two together so that it's
6 now one unit.

7 Q. Am I correct that what I'm
8 going to call the constrained liner, if
9 that's okay?

10 A. Yes.

11 Q. Just so I'm understanding, it
12 fits into the acetabular cup?

13 A. Yes.

14 Q. Does the size, the correct
15 size of the constrained liner depend on
16 the size of the acetabular cup?

17 A. The liner, you use a 52 liner
18 for a 52 cup if that makes senses to you.
19 It is machined to fit a specific --
20 another piece, and it's -- you can't use
21 one liner for the whole spectrum of
22 acetabulum. You've got to use a liner for
23 a cup.

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1 MR. BARTON: The matching
2 sizes.

3 MR. POPE: Right.

4 Q. (By Mr. Barton) Before you
5 performed the initial surgery, did you
6 anticipate at some point implanting a
7 constrained liner --

8 A. No.

9 Q. -- into Mrs. Bloodsworth?
10 Before Mrs. Bloodsworth began
11 having her series of dislocations, did you
12 anticipate implanting a constrained liner?

13 A. It's one of the options. It's
14 not really a primary option. You say,
15 well, what do you mean. You can lengthen
16 the leg, you can use different types of
17 liners. There's a whole gamut of things
18 that pops through your head when you see
19 someone who dislocates. It is in the
20 armamentarium, and it was, indeed, used.

21 Q. Did Donnie Lanier process the
22 order for the constrained liner for
23 Mrs. Bloodsworth as well?

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1 A. Yes.

2 Q. Do you remember what the time
3 between when you -- I assume at some point
4 you somehow communicated to Donnie Lanier
5 that you were going to implant a
6 constrained liner?

7 A. Yes.

8 Q. And from the time that you
9 communicated to Mr. Lanier, do you have a
10 judgment as to the time frame between that
11 and the time that the constrained liner
12 was actually available for you to implant?

13 A. Well, let me just run through
14 exactly what happened.

15 Q. Sure.

16 A. The patient, Mrs. Mary, came
17 in and she had recurrent dislocations. We
18 both felt, you know, we've got to do
19 something to stop this, and that was --
20 the time frame was really following her
21 visit where she said let's go, I said
22 let's go.

23 I then called Donnie Lanier

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1 and said I've got a patient that I think
2 looks pretty good on X-ray, and I want
3 everything that we've got, big heads,
4 offset liners, constrained liners, lateral
5 displaced liners. We're going to schedule
6 this for a couple of weeks after her
7 office visit, and I said, you know, I need
8 all the bells and whistles. Right, right.
9 So, we then scheduled the case for a
10 couple of weeks after I saw Mrs. Mary in
11 the office.

12 I did not look at her
13 acetabular size. The constrained
14 acetabulum, I thought that they probably
15 had her size because she was large. They
16 came in the larger sizes. She was a 52.
17 The smallest they had was 54. He came
18 back to me somewhere a week or so later
19 and said that 54s are going to be not a
20 special order, and 52s, we're going to
21 have 52s all the way down to 44s or
22 something in a couple of weeks, and I
23 said, whoa, let me say something, and

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1 let's just hold off so that we have, you
2 know, that particular constrained liner
3 available so that if we look and say the
4 acetabulum is fine, the acetabulum is
5 fine, we can just change out instead of
6 redoing an acetabulum. And that's the
7 sequence of events.

8 Q. Can you tell from your records
9 what size constrained liner was ultimately
10 implanted?

11 A. 52.

12 Q. And that's a 52 millimeter?

13 A. 52 millimeter.

14 Q. And it's your recollection
15 that at that point in time that a 54
16 millimeter was, for lack of a better word,
17 available right then?

18 A. Right then, yes.

19 Q. Could you have performed the
20 surgery using a 54 millimeter constrained
21 liner?

22 A. Yes.

23 Q. Before the second surgery, if

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1 I'm understanding you correctly, you told
2 Donnie that, as you said, I want all the
3 bells and whistles there?

4 A. Yes.

5 Q. Am I right to infer that the
6 use of a constrained liner was one of
7 several options you were considering on
8 how to perform the revision?

9 A. Yes.

10 Q. Was Mrs. Bloodsworth's medical
11 condition harmed in any way by your
12 decision to wait until the 52 was
13 available?

14 A. No.

15 Q. Prior to the initial surgery,
16 did you and Donnie Lanier discuss the
17 availability of different sizes of Smith &
18 Nephew constrained liners?

19 A. No.

20 Q. Was the availability of the
21 different size constrained liners a factor
22 that you considered when deciding to use
23 Smith & Nephew products in the initial

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1 surgery?

2 A. No.

3 Q. Was the availability of
4 different size constrained liners an issue
5 at all with you before performing the
6 initial surgery?

7 A. No.

8 Q. Prior to Mrs. Bloodsworth's
9 revision, had you used constrained liners
10 before?

11 A. Yes.

12 Q. Had you used a Smith & Nephew?

13 A. One.

14 Q. And had you also used Zimmer?

15 A. A Zimmer, yes.

16 Q. And at the time of
17 Mrs. Bloodsworth's surgery, had your
18 experience with those been positive?

19 A. Yes.

20 Q. If you had known prior to
21 Mrs. Bloodsworth's initial surgery that
22 the constrained liner was not available in
23 certain sizes, would that have affected in

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1 any way the way that you performed her
2 initial surgery?

3 A. No.

4 Q. And along those same lines,
5 would you have knowing that -- let me ask
6 it better.

7 If you had known prior to
8 Mrs. Bloodsworth's initial surgery that
9 the constrained liner was not available in
10 certain sizes and maybe even -- or even
11 the size that she would eventually need,
12 would you have still used the Echelon and
13 Reflection products in that surgery?

14 A. Yes.

15 Q. As you sit here today, is
16 there anything that you think that Donnie
17 Lanier should have told you prior to the
18 initial surgery that he did not?

19 A. No.

20 Q. Do you have any complaints
21 about Donnie Lanier with respect to his
22 communications with you about Smith &
23 Nephew products prior to the initial

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1 surgery?

2 A. No.

3 Q. And you still perform hip
4 replacements as we sit here today?

5 A. Yes.

6 Q. And before you perform those
7 surgeries, do you check on the
8 availability of various sizes of
9 constrained liners?

10 A. No.

11 Q. Do you know of any orthopedist
12 here in Montgomery who does?

13 A. No.

14 MR. POPE: That's all I have,
15 Doctor.

16 MR. DUTTON: Just a few,
17 please, sir.

18 EXAMINATION BY MR. DUTTON:

19 Q. At the time the -- let me
20 start over.

21 I believe the revision surgery
22 using the constrained liner was originally
23 scheduled for January and had to be

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1 postponed for several weeks due to the
2 unavailability of, I guess, a size 52
3 constrained liner. Does that sound about
4 right?

5 A. Correct.

6 Q. At the time the original -- at
7 the time the original constrained liner
8 surgery was scheduled and you learned of
9 the unavailability of the size 52, you had
10 a discussion with Mrs. Bloodsworth about
11 postponement of surgery?

12 A. Yes.

13 Q. Do you remember telling her
14 that had you known the -- her size of the
15 constrained liner was unavailable you
16 would not have used Smith & Nephew
17 products to begin with?

18 A. No, I don't.

19 Q. And do you have any idea as to
20 how that got in her head?

21 A. No, other than the general
22 confusion that there's been regarding the
23 postponement. My whole reason to postpone

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1 it was my thinking that if, indeed, it
2 comes down to just a constrained liner, I
3 can give her a lesser operation by waiting
4 a few weeks.

5 Q. All right.

6 A. And I know that I did say to
7 them, as I said to Donnie Lanier, it was
8 my exact thoughts, this is a redo. We
9 don't want, we don't want to ask for
10 something that's not there. We don't want
11 to say I left that in Birmingham. I want
12 everything, big heads, everything known
13 orthopedically to be in that room at that
14 point in time, and we had a chance to get
15 another piece of the puzzle there if we
16 waited two weeks.

17 Q. Okay. Is it your testimony,
18 sir, that you did not tell
19 Mrs. Bloodsworth that you would not have
20 used Smith & Nephew products, referring to
21 the June '03 surgery, had you known of the
22 unavailability of certain sizes of
23 constrained liner? Is it your testimony

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1 that you did not say that, or is it your
2 testimony that you don't remember saying
3 that?

4 A. I don't remember saying that.

5 Q. Okay. I believe I heard you
6 testify a few moments ago that you would
7 have used -- again, referring to June of
8 '02, had you known of the unavailability
9 of certain sizes of constrained liners,
10 you nonetheless would have used Smith &
11 Nephew at the time of that surgery?

12 A. Yes.

13 Q. Did you know of the
14 unavailability of constrained liners in
15 certain sizes at that time?

16 A. Vaguely. Not to the
17 millimeter.

18 Q. Okay. Do you use Smith &
19 Nephew, these products, anymore?

20 A. Yes.

21 Q. The hips you do?

22 A. Yes.

23 Q. Has your experience with other

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1 than Mrs. Bloodsworth's hip been good with
2 reference to these hips?

3 MR. POPE: Object to the form
4 of the question.

5 A. The hips, yes. The
6 constrained liner, no. In other words,
7 the primary one that I stick in there does
8 well. The constrained liner, no.

9 Q. And you don't use those
10 constrained liners any longer?

11 A. No.

12 Q. And when you have used those
13 constrained liners, they have failed?

14 A. Yes.

15 Q. And when you have used those
16 constrained liners, did you use them as
17 they were intended to be used?

18 A. Yes.

19 Q. And I'm not trying to make an
20 engineer out of you, but in your opinion
21 are those constrained liners defective in
22 one way or another?

23 MR. POPE: Object to the form

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1 of the question.

2 Q. You may answer.

3 A. I don't -- my track record in
4 my group's been miserable, and I don't, I
5 don't think it's a good appliance. I
6 think their primary is good. I think that
7 particular revision thing, which is
8 hopefully once every ten or twelve years,
9 is not good.

10 Q. And, so, as far as you would
11 be concerned, would you think them to be
12 defective?

13 MR. POPE: Object to the form
14 of the question.

15 A. And the reason I'm hesitating
16 is I don't know the word -- I'm not trying
17 to play a word game or anything. Would I
18 want it in me? No. Would I put it in
19 you? No. I think the design is
20 incorrect. Whether the product is
21 defective, I don't know that. I think the
22 design is not correct, if that --

23 Q. That makes sense.

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1 A. You know what I mean.

2 MR. DUTTON: That's all, sir.

3 Thank you.

4 MR. BARTON: Let me speak with
5 him for just a second.

6 (Whereupon, the deposition was
7 recessed from approximately 11:37 a.m. to
8 approximately 11:41 a.m.)

9 REEXAMINATION BY MR. POPE:

10 Q. Doctor Hođurski, you had
11 answered just a moment ago to Mr. Dutton's
12 question that you did not recall telling
13 Mrs. Bloodsworth that had you known that
14 the constrained liner was not available in
15 her size that you would not have used
16 Smith & Nephew products?

17 A. Correct.

18 Q. Do you have or what is your
19 best judgment, though, about whether you
20 told her that?

21 A. I honestly don't know. I'm
22 not trying to be -- Flip a coin. I don't
23 know.

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1 Q. Fair enough.

2 A. I don't remember saying that.

3 Q. Fair enough. That's good,
4 that's it.

5

6 FURTHER DEPONENT SAITH NOT

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C E R T I F I C A T E

STATE OF ALABAMA:

JEFFERSON COUNTY:

I hereby certify that the above and foregoing deposition was taken down by me in stenotype, and the questions and answers thereto were reduced to typewriting under my supervision, and that the foregoing represents a true and correct transcript of the deposition given by said witness upon said hearing.

I further certify that I am neither of counsel nor kin to the parties to the action, nor am I in any way interested in the result of said cause.

Carol F. Rye

367 VALLEY AVENUE
(877) 373-3660 BIRMINGHAM, ALABAMA (205) 397-2397

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